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**Public Version**

November 5, 2001

Gloria Blue, Executive Secretary
Trade Policy Staff Committee
Office of the USTR
600 17th Street, NW
Washington, DC 20508

**<u>Information for Which Business Confidential Treatment is Requested is Deleted from Brackets on the Following Pages: 14-17.</u>**

***Re: Section 201 Investigation on Steel: USWA Proposals on Adjustment Actions***

Dear Ms. Blue:

On October 26, 2001, the Office of the U.S. Trade Representative, Trade Policy Staff Committee (TPSC), published a notice in the *Federal Register* inviting written proposals regarding the actions that parties intend to take to facilitate the positive adjustment to import competition by the domestic industries producing the steel products covered by affirmative or tie votes of the International Trade Commission as to serious injury. 66 Fed. Reg. 54321.

On behalf of the United Steelworkers of America, AFL-CIO· CLC (USWA), we hereby respond to that invitation and submit the USWA's proposal on adjustment actions it intends to take to facilitate positive adjustment to import competition.

Pursuant to USTR's request, we are submitting one (1) copy of the USWA's business confidential submission and one (1) copy of a public version.

**Request for Business Confidential Treatment**

Pursuant to 15 C.F.R. § 2003.6, we request confidential treatment for the confidential business information that appears in brackets on pages 14-17 of the submission. The data for which confidential treatment is requested consists of information related to provisions in USWA collective bargaining agreements with individual companies. This is sensitive information for the USWA. These data are not publicly available and their public disclosure would cause substantial harm to the USWA.

Respectfully submitted,

Terence P. Stewart, Esq.
Patrick J. McDonough, Esq.
Rebecca L. Woodings, Trade Consultant
*Special Counsel to the USWA*

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## Executive Summary

The U.S. steel industry is seriously injured from increased imports and needs a period of temporary import relief. Any remedy, to be effective, must address the underlying core problem of global excess capacity that is driven by market distorting practices. An appropriate remedy for the serious injury suffered by the U.S. steel industry must restore domestic prices and industry profitability to reasonable levels, so that the industry is capable of stabilizing financially, reinvesting in its production facilities, increasing its capacity utilization, and improving its efficiency and competitiveness. The U.S. steel industry producing the 16 products covered by the remedy phase needs sufficient profitability to allow it to make needed capital investments of some $12 billion over the next 4 years for maintenance and installation of new and upgraded facilities in order to maintain its competitiveness.

The USWA is committed to maintaining American steel jobs, to supporting and requiring, where it can, U.S. steel companies to reinvest in their productive steelmaking facilities, to working with U.S. steel producers in expanding and improving worker training and productivity, and to working cooperatively with the industry and government to achieve full funding of legacy costs to assure that the contractual obligations to its members are honored, while also permitting the industry to consolidate and restructure.

**Public Summary of Bracketed Business Confidential Information Contained in the USWA's Proposals on Adjustment Actions (pages 14-17).**

The USWA is committed to supporting reinvestment by the domestic producers in their productive facilities in order to modernize and maintain the competitiveness of the steel industry. In certain recent settlement agreements, the USWA has sought commitments from the companies that they will not make investments outside the steel industry without USWA approval, or if investments over a certain amount (*e.g.*, $10-20 million) are made in the steel industry but not in the particular company's own facilities, the company will maintain its steel capacity and meet a minimum level of capital spending (*e.g.*, $25-35 per ton) on its own steel operations before making such investments outside its own operations. Furthermore, in one settlement agreement, the USWA negotiated provisions in which the company agreed to maintain its level of basic steelmaking capacity and committed to reinvest in its steel production facilities (*e.g.*, blast furnaces) to replace lost production or to modernize existing facilities as necessary. In future settlement agreements, the USWA intends to seek similar commitments from companies that they focus their investment expenditures on their own productive facilities.

## I. INTRODUCTION

On October 22, 2001, the International Trade Commission affirmatively determined that the following steel products are being imported into the United States in such increased quantities as to be a substantial cause or serious injury or threat thereof to the domestic industry producing such products:

| | |
|---|---|
| Flat-rolled products | • slabs<br>• plate<br>• hot rolled sheet and strip<br>• cold-rolled sheet and strip other than GOES<br>• corrosion-resistant and other coated sheet and strip |
| Long products | • hot-rolled bar & light shapes<br>• cold-finished bar<br>• rebar |
| Tubular products | • welded other than OCTG<br>• flanges, fittings, tool joints |
| Stainless and tool steel products | • bar and light shapes<br>• rod |

In addition, the Commission reached a 3-to-3 injury determination with respect to the following steel products:[1]

| | |
|---|---|
| Flat-rolled products | • tin mill products |
| Stainless and tool steel products | • tool steel<br>• wire<br>• flanges and fittings |

Following an affirmative determination of serious injury (or a determination which may be treated as affirmative), the statute directs that the "interagency trade organization ... shall, with respect to each affirmative determination ..., make a recommendation to the President as to what action the President should take" to facilitate efforts by the domestic industry to make a positive adjustment to import competition.[2] This submission reviews the objectives of an adequate remedy and presents the commitments of the United Steelworkers of America (USWA) regarding actions it intends to take to facilitate the steel industry's adjustment to import competition.

## II. AN APPROPRIATE REMEDY MUST ADDRESS THE UNDERLYING CORE PROBLEM OF GLOBAL EXCESS CAPACITY, AND RESTORE PRICING LEVELS AND PROFITABILITY TO REASONABLE LEVELS TO ALLOW THE INDUSTRY TO STABILIZE, MAKE NEEDED CAPITAL INVESTMENTS AND REMAIN COMPETITIVE.

### A. To Be Effective, The Remedy Must Address The Underlying Core Problem Of Global Excess Capacity Driven By Market Distorting Practices.

When, on June 5, 2001, President Bush announced a comprehensive 3-part initiative to respond to the challenges facing the U.S. steel industry, he clearly stated the goal of the initiative:

> This Administration is committed to free trade as an engine of growth. As part of our free trade agenda, we are committed to ensuring that American industry and American workers can compete on a level playing field. That is why, today, I am announcing my intent to launch an initiative to respond to the challenges facing the U.S. steel industry. <u>This initiative will be designed to restore market forces to world steel markets and eliminate the practices that harm our steel industry and its workers.</u>[3]

Thus, the President's goal is the restoration of market forces to the global steel market.

The President also clearly stated the core problem facing the U.S. steel industry:

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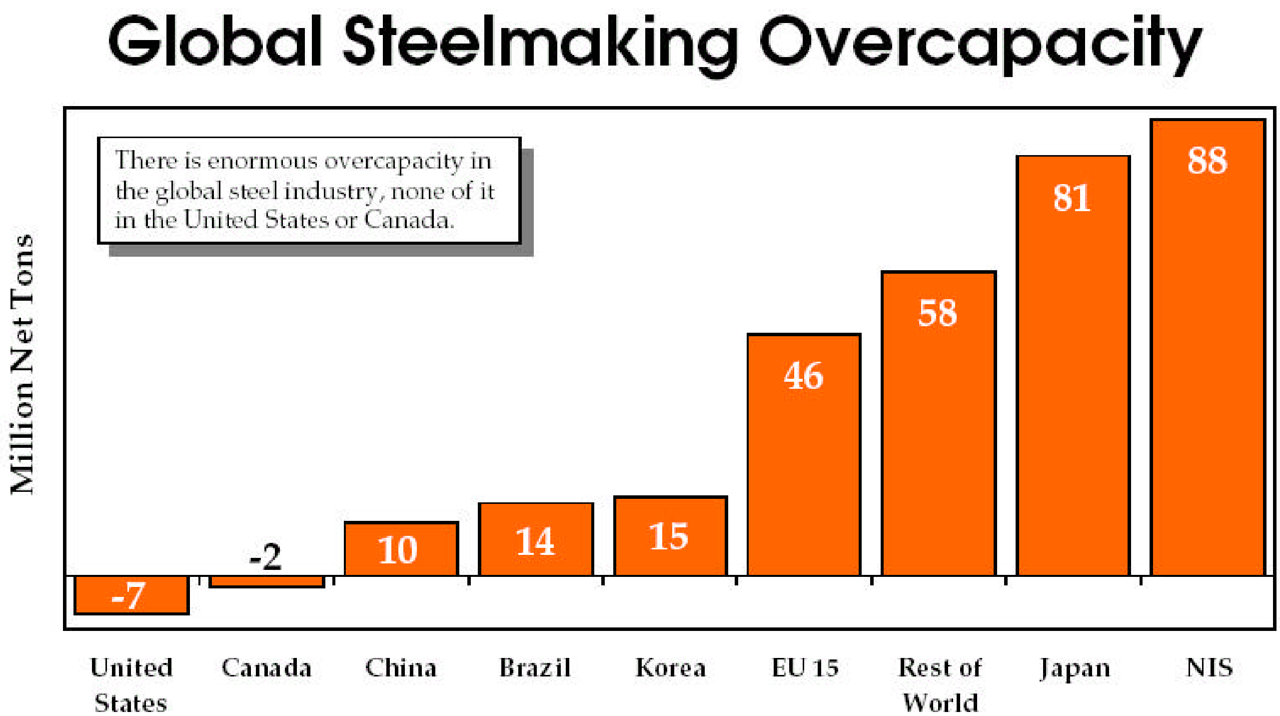
1 The statute provides that when the Commission reaches an equally divided determination, "the determination agreed upon by either group of commissioners may be considered by the President as the determination of the Commission." 19 U.S.C. § 1330(d)(1).

2 19 U.S.C. § 2253(a)(1)(C).

3 Statement By The President Regarding A Multilateral Initiative On Steel, June 5, 2001 (emphasis added).

> The U.S. steel industry has been affected by a 50-year legacy of foreign government intervention in the market and direct financial support of their steel industries. The result has been significant excess capacity, inefficient production, and a glut of steel on world markets.[4]




Source: *OECD Steel Outlook 1999/2000*, Organization for Economic Co-Operation and Development.
Notes: Data for 1999. Overcapacity defined as crude steelmaking capacity, adjusted to reflect yield loss, less apparent consumption.
Newly Independent States (NIS): Federation of Russia, Ukraine, Belarus, Kazakhstan, Uzbekistan, Azerbaijan, Moldova, and Georgia .
EU 15: Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, U.K. and Sweden.

Thus, in considering a proper remedy for the U.S. steel industry, it must be kept in mind that the problem facing the steel industry today is **not** an internal problem. The problem is **not** inefficient domestic steel companies. The problem is **not** an inefficient workforce. The problem is **external**. The problem **is excess capacity** around the world, excess capacity that is

[4] *Id.*

encouraged and propped up by foreign governments that distort market forces and market balance. That is why the President announced a 3-part initiative, only one part of which is the section 201 investigation.

> First, I am directing the United States Trade Representative, in cooperation with the Secretary of Commerce and Secretary of the Treasury, to initiate negotiations with our trading partners seeking the near-term elimination of inefficient excess capacity in the steel industry worldwide, in a manner consistent with applicable U.S. laws.
>
> Second, I am directing the U.S. Trade Representative, together with the Secretaries of Commerce and the Treasury, to initiate negotiations on the rules that will govern steel trade in the future and eliminate the underlying market-distorting subsidies that led to the current conditions in the first place. Absent strict disciplines barring government support, direct or indirect, for inefficient steel-making capacity, the problems confronting the U.S. steel industry -- and the steel industry worldwide -- will only recur.
>
> We see these negotiations -- and the goal of restoring market forces -- as being in our interest and in the interest of our trading partners and their steel industries. That is why we would like to work cooperatively with our trading partners in pursuing this initiative.
>
> Third, I am directing the U.S. Trade Representative to request the initiation of an investigation of injury to the United States industry by the International Trade Commission under section 201 of the Trade Act of 1974. This action is consistent with our WTO obligations.[5]

The USWA supports the President's 3-part initiative, and is committed to keeping the industry competitive if market forces can be restored to the global steel market.

As the Commission has determined, most of the steel industry is suffering serious injury from increased imports. The industry has suffered staggering losses in revenue and profit because of the import surges at very depressed prices and now is in a severely weakened

[5] Statement By The President Regarding A Multilateral Initiative On Steel, June 5, 2001 (emphasis added).

financial condition with 25 companies having declared bankruptcy in the last 3 ½years and other companies very weakened. The remedy must provide relief that will permit the industry to stabilize and recover. However, no remedy will be effective if it does not address the underlying core cause of the steel crisis -- global excess capacity. Temporary import relief that does not address the underlying problem will merely buy a time-out, but ultimately and inevitably leave the status quo to return once the temporary relief period expires. Assuming that global excess capacity is addressed in the relief period, the USWA is committed to seeing that domestic companies remain viable and that the benefits of interim import relief are reinvested in the production facilities and the workers of the U.S. steel industry.

### B. The U.S. Steel Industry Needs A Remedy That Will Allow It To Return To Profitability.

The appropriate remedy must provide the domestic industry sufficient time and sufficient results to permit it to generate enough profits to stabilize its financial condition, and to reinvest in its productive facilities. An appropriate remedy for the serious injury suffered by the U.S. steel industry must restore domestic prices and industry profitability to reasonable levels, so that the industry is capable of stabilizing financially, reinvesting in its production facilities, increasing its capacity utilization, and improving its efficiency and competitiveness. Unlike other 201 investigations the Commission has conducted, existing pricing levels are not a reflection of opponents having superior technology or efficiencies. Existing pricing levels on many of the products are not sustainable for any producer without government interference and support.

### 1. Restoration of profitability will permit the industry to make needed capital investments of $12 billion over a 4 year remedy period.

One of the most important and critical elements facing the domestic steel industry is the need for capital. In order for the steel industry to survive, it must continually invest in its own infrastructure, not merely to maintain operating capability but also to develop new technology and improve its productivity. Under the current market conditions of operating losses or minimal profits, numerous producers in the industry have not been able to make adequate investments in needed capital projects. Because the steel industry is a high fixed cost and capital intensive industry, the inability of domestic producers to make adequate investments endangers their future viability.

Dr. R.J. Fruehan of Carnegie-Mellon University has concluded that:

> the flat-rolled steel industry must invest at least $7 to $9 billion in the near future -- by which I mean, within three years at the outside -- to remain competitive. This will only be possible if imports and prices return to acceptable levels so that the firms can justify the investments.[6]

The USWA concurs with the conclusion of Dr. Fruehan that flat rolled producers need to invest at least $7-9 billion in the next 3 years. But Dr. Fruehan's report looks at the needs of the flat-rolled products producers only. All of these products[7] are part of the Commission's 16 categories being examined in the remedy phase . Of course, when the capital investment requirements of all 16 sectors of the steel industry are considered, the USWA believes that the

[6] R.J. Fruehan, *Investments Required by the Flat Rolled Steel Industry to Remain Competitive* (Sept. 10, 2001), at 1-2 (Public Exhibit 2 to Public Prehearing Brief of Bethlehem Steel, LTV Steel, National Steel, and U.S. Steel, Sept. 10, 2001, ITC Inv. No. TA-201-73) (*Fruehan Report*).

[7] Except grain oriented electrical steel (GOES).

U.S. steel industry needs to spend roughly $12 billion in capital investments in these 16 sectors over the next 4 years to remain competitive.

In the 1996-1998 period, the industry producing the products covered by the remedy phase expended an average of $3 billion per year in capital investment.[8] That amount fell off significantly in 1999 and continued to decline in 2000 and 2001.[9] At a minimum, in order to achieve the level of capital investment that existed prior to the steel crisis, the industry will need to achieve profitability sufficient to return to funding capital investments at a rate of $3 billion per year. Over a 4-year remedy period, this would amount to $12 billion in capital investments needed.

The loss of profits in the 1998 to mid-2001 period is a good indicator of the increased profitability the industry needs to achieve in the remedy period in order to make the needed level of capital investment and regain financial health. The USWA estimates that, for the steel products on which the Commission made affirmative or tie votes as to serious injury, the domestic steel industry lost pre-tax income of more than **$15 billion** during the 1998-June 2001 period due to price depression and loss of market share (using 1996-97 averages as the benchmark).[10] The loss of such staggering sums has resulted in delayed or eliminated investments, cash flow crises at many companies, the downgrading of stock and debt for most companies, the closure of many facilities, and the declaration of bankruptcies at more than two dozen companies. In addition, the financial crisis in the steel industry has had a significant

8 *See* Public Staff Report in ITC Inv. No. TA-201-73 (Oct. 26, 2001); Public Prehearing Staff Report in ITC Inv. No. TA-201-73 (Sept. 4, 2001).

9 *See id.*

10 *See* Public Staff Report in ITC Inv. No. TA-201-73 (Oct. 26, 2001); Public Prehearing Staff Report in ITC Inv. No. TA-201-73 (Sept. 4, 2001).

adverse effect on state and local governments, on many educational systems and on healthcare service and availability in local communities. Consequently, the steel industry needs relief over the next four years that will provide increased profitability sufficient to permit reinvestment, secure the industry's financial structure, allow the industry time to handle existing liabilities, and generally to stabilize the industry.

Another indicator of the amount of financial ground that the steel industry needs to make up to regain financial stability is the ratio of debt to stockholders' equity. A comparison of the ratio of debt to stockholders' equity for all manufacturing to that for iron and steel manufacturing shows a significant shortfall. In the first quarter of 2001, the ratio for all manufacturing was 1.51 while for iron and steel manufacturing the ratio was 2.49. In addition, just looking at iron and steel manufacturing alone, the debt to equity ratio has increased from 1.83 in the first quarter of 1998[11] to 2.49 in the first quarter of 2001. The industry would need to increase stockholders equity by $8.4 billion to get back to first quarter 1998 ratios and by $15.0 billion to match all manufacturing.

**Ratio Of Total Liabilities To Stockholders' Equity**
(million dollars)

| | **Iron and Steel Manufacturing** | | | | |
|---|---|---|---|---|---|
| | **1Q 2000** | **2Q 2000** | **3Q 2000** | **4Q 2000** | **1Q 2001** |
| Total liabilities | 58,025 | 58,504 | 57,406 | 57,360 | 57,667 |
| Stockholders' equity | 25,557 | 24,772 | 24,425 | 24,115 | 23,150 |
| Ratio (%) | 2.27 | 2.36 | 2.35 | 2.37 | 2.49 |
| | **All Manufacturing** | | | | |
| Total liabilities | 2,796,617 | 2,845,799 | 2,918,714 | 2,959,484 | 2,951,300 |
| Stockholders' equity | 1,717,451 | 1,820,827 | 1,857,633 | 1,885,673 | 1,951,421 |
| Ratio (%) | 1.63 | 1.56 | 1.57 | 1.57 | 1.51 |

Source: U.S. Census Bureau, *Quarterly Financial Report for Manufacturing, Mining and Trade Corporations: 2001, Quarter 1* (June 2001) at page 4, Table 1.1 and page 36, Table 9.1.

11 *See* U.S. Census Bureau, *Quarterly Financial Report for Manufacturing, Mining and Trade Corporations: 1998, Quarter 1* (June 1998) at page 36, Table 9.1.

The steel industry cannot make needed investments without restoring its financial health. The loss of more than $15 billion in income (although some of this amount would have been paid in taxes and dividends) demonstrates the financial weakening that has occurred over the last 3 ½years <u>during the height of the business cycle</u>, a time when the industry should have been able to significantly strengthen its financial position, pay down debt, and increase investments. The loss in profits, flowing from depressed prices and reduced market share, has resulted in sharp drops in investment. An appropriate remedy must stop the industry's financial hemorrhaging and permit investment levels that maintain competitiveness.

**2. The U.S. steel industry needs to make capital investments in its production facilities for all range of products but especially in the "hot end" of production.**

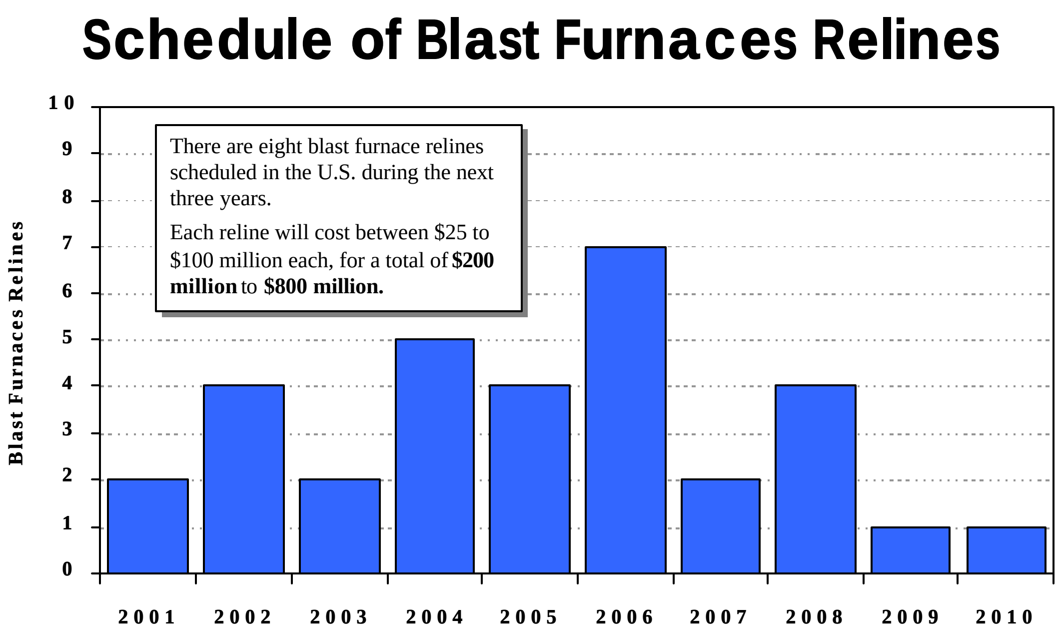
The USWA believes that with respect to the types of capital investments that are required to remain competitive, investments in the "hot end" of the steel industry are vital. In his study, Dr. Fruehan notes:

> Ironmaking, including cokemaking, is the heart of an integrated steel plant. It is the largest capital expense and the greater environmental concern, and it greatly influences overall operating costs.[12]
>
> The flat-rolled steel industry is highly capital intensive, and a very large proportion of the capital invested in the industry is invested in the "hot end" of a mill, <u>i.e.</u>, the slabmaking facility. Moreover, a majority of the technology advances in the industry - <u>e.g.</u>, continuous casting and vacuum degassing - also have been heavily concentrated in the hot end.[13]

The schedule of blast furnace relines alone that are coming up this decade demonstrates that enormous amounts of capital spending are required just to maintain equipment and remain

[12] *Fruehan Report* at 6.

competitive. In the present crisis, domestic steel companies have been unable to acquire the capital they need to maintain and modernize their facilities, and consequently have had to scale back maintenance and capital projects.




Source: Christopher Plummer, Steel Strategies.

[13] *Fruehan Report* at 3.

## III. USWA COMMITMENTS TO FACILITATE POSITIVE ADJUSTMENT TO IMPORT COMPETITION

> **I say with some considerable pride in many instances our bargaining committees went to the bargaining table, and while they were bargaining a comprehensive settlement with the employer they insisted through collective bargaining on reinvestments in the plants because we did not want to be the victims of the 1980s again when hundreds of our facilities were closed because companies had not reinvested in those plants. Our members have made those choices. They've made those sacrifices, and they've played by the rules.**
>
> ***Leo W. Gerard, USWA International President, Merrillville, Indiana Hearing, October 5, 2001 (Tr. at 2840)***

The statute provides that, in determining what action the President should take to facilitate efforts by the domestic industry to make a positive adjustment to import competition, the President shall take into account the commitments of firms and workers in the industry submitted to the Commission pursuant to 19 U.S.C. § 2252(a)(6)(A).[14]

The United Steelworkers of America, AFL-CIO· CLC (USWA), presents the following commitments.[15] The USWA has made and will continue to make commitments to support the domestic steel industry's positive adjustment to import competition, particularly by supporting reinvestment in the industry.

[14] 19 U.S.C. § 2253(a)(2)(C).

[15] The following commitments were submitted to the International Trade Commission in the USWA's prehearing brief on remedy, dated October 29, 2001, ITC Inv. No. TA-201-73.

The USWA believes that plans of adjustment to import competition should not involve the loss of additional steelworker jobs. U.S. steel industry workers have paid their dues. The Department of Commerce reports that:

> There were several reasons U.S. steel workers reacted so strongly to the 1998 crisis. First, steel workers believed that they had paid their dues. U.S. steel companies and workers had gone through fifteen years of painful restructuring that had resulted in a much stronger and leaner U.S. steel industry. But increased productivity came at a heavy cost. With steel shipments remaining level, more efficient steel-making resulted in a dramatic drop in employment. Between 1979 and 1994, total steel industry employment fell 58 percent, a loss of more than 330,000 jobs.
>
> Second, at a time when they believed that they should have been reaping the benefits of a strong U.S. market, steel workers were instead facing layoffs, shorter shifts and reductions in pay. The U.S. steel market was not in the throes of a cyclical downturn—demand in the U.S. market increased in 1998, up six percent compared to 1997, a year in which demand was already strong. However, with so much foreign supply entering the U.S. market, prices declined in the face of increased U.S. demand.[16]

The USWA is committed to working with the domestic companies to improve productivity and increase capital expenditures. These efforts will be adversely constrained to the extent capital is not available to the domestic industry. Affirmative import relief will provide a remedy to the serious injury suffered by the U.S. steel industry and provide the industry with a temporary rest period in order to adjust to import competition. A period of import relief and more stable market conditions will allow the steel industry the opportunity to make necessary capital investments in order to maintain its global competitiveness and prepare for future import competition. Because capital investment projects typically require significant time to proceed

[16] U.S. Dep't Comm., Report to the President, *Global Steel Trade: Structural Problems and Future Solutions*, at 13 (July 2000).

from planning to completion, the domestic steel industry requires the maximum remedy period for relief - four years.

### A. The USWA Is Committed To Supporting Reinvestment In The U.S. Steel Industry, Even To The Extent Of Making Reinvestment By A Company In Its Productive Facilities A Requirement In Labor Agreements Negotiated Through Collective Bargaining.

The USWA is committed to working with domestic steel companies to see that adequate capital is devoted to investing in the companies' steel production facilities. USWA International President Leo W Gerard stated the union’s policy at the Commission's field hearing in Merrillville, Indiana:

> I say with some considerable pride in many instances our bargaining committees went to the bargaining table, and while they were bargaining a comprehensive settlement with the employer they insisted through collective bargaining on reinvestments in the plants because we did not want to be the victims of the 1980s again when hundreds of our facilities were closed because companies had not reinvested in those plants. Our members have made those choices. They've made those sacrifices, and they've played by the rules.[17]

Accordingly, the USWA has made major efforts to assist companies in bankruptcy to maintain their steel operations and, where necessary, has assisted in formulating survival options for the companies. Where this has occurred, the USWA has sought to ensure through collective bargaining agreements that companies make commitments to reinvest in their productive facilities.

[17] Leo W. Gerard, USWA International President, ITC Inv. No. TA-201-73, Merrillville, Indiana Hearing, October 5, 2001 (Tr. at 2840).

One such example is **[**

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Another example is the **[**

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The **[ ]** demonstrates the USWA's commitment to assuring that domestic steel producers reinvest in their productive facilities. The USWA is committed to following this policy in future collective bargaining and labor agreements.

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In addition to its commitment to support and expand capital investment, the USWA is also committed to working with the domestic steel companies to expand and enhance worker training programs that maintain and improve worker skills. A trained and experienced work force is one of a company's greatest assets, and a broadly-skilled and flexible work force will improve a company's productivity.

**B. The USWA Is Committed To Working With The Government And The Domestic Companies To Achieve Full Funding Of Legacy Costs To Permit Restructuring While Honoring Obligations To The American Workers.**

Legacy costs must be addressed in the remedy recommendation for the industry to be able to achieve restoration. USWA International President Leo W. Gerard has stated: "For some time now, our union has been saying that there are too many steel companies. There needs to be a consolidation."[24] The USWA recognizes that restructuring is needed. But restructuring cannot be a shorthand for simply eliminating steelworker jobs and dishonoring the contractual rights to health and pension benefits of current and retired steelworkers.

The challenge is how to achieve the full funding of pre-existing health and pension benefit contractual obligations, that is, "legacy costs." Other countries have incurred similar

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24 "Trade Commission Rules Steel Imports Hurt American Industry," *State News Service* (October 23, 2001).

legacy costs and have addressed and resolved them by having their governments absorb the costs. The USWA has proposed that the Commission recommend that the President pursue legislation authorizing the payment of funds to the industry specifically for coverage of the industry's legacy costs. This measure would provide a source of funding for legacy costs, relieve the domestic companies of a significant financial burden, honor the contractual rights of steelworkers, and facilitate the ability of the industry to restructure and hence to adapt to changes in the conditions of competition.

The USWA is committed to working with the government and the domestic steel companies to see that legacy costs are fully funded. Full funding of health and pension benefits for retirees will not only honor the contractual obligations of the companies to their workers but also permit the industry to achieve rational restructuring with a minimum loss of production capacity and steelworker jobs.

## IV. CONCLUSION

The U.S. steel industry is seriously injured from increased imports and needs a period of temporary import relief. The U.S. steel industry producing the 16 products covered by the remedy phase is greatly in need of capital investments of some $12 billion over the next 4 years for maintenance and installation of new and upgraded facilities in order to maintain its competitiveness. The USWA is committed to maintaining American steel jobs, to supporting and requiring (where possible) U.S. steel companies to reinvest in their productive steelmaking facilities, and to working with the U.S. steel producers in expanding and improving worker training and productivity, and to working cooperatively with the industry and government to achieve restructuring through the full funding of legacy costs.

Respectfully submitted,

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